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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 652]

भोपाल, सोमवार, दिनांक 4 दिसम्बर 2017—अग्रहायण 13, शक 1939

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 4 दिसम्बर 2017

क्र. 19036-258-इक्कीस-अ-(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, दण्ड विधि (मध्यप्रदेश संशोधन) विधेयक, 2017 (क्रमांक 26, सन् 2017) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा, प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,

राजेश यादव, अतिरिक्त सचिव.

MADHYA PRADESH BILL

No. 26 OF 2017

THE CRIMINAL LAW (MADHYA PRADESH AMENDMENT) BILL, 2017

A Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1973 in their application to the State of Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the sixty-eighth year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Criminal Law (Madhya Pradesh Amendment) Act, 2017.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE

Amendment of
Central Act
No. 45 of 1860
in its
application to
the State of
Madhya
Pradesh.

2. The Indian Penal Code (No. 45 of 1860) (hereinafter referred to as the principal Act), shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided.

Omission of
section 354A.

3. Section 354A of the principal Act, as inserted by the Indian Penal Code (Madhya Pradesh Amendment) Act, 2004 (No. 14 of 2004) shall be omitted.

Amendment of
section 354B.

4. In section 354B of the principal Act, for the words “shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine”, the words “shall be punished on first conviction with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine; and be punished on a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years and with fine which shall not be less than one lac rupees” shall be substituted.

Amendment of
section 354D.

5. In section 354D of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and shall also be liable to fine; and be punished on a second or subsequent conviction with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and with fine which shall not be less than one lac rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of lesser period of imprisonment than specified minimum imprisonment.”

6. After section 376A of the principal Act, the following section shall be inserted, namely:-

Insertion of section 376AA.

“376AA. Whoever commits rape on a woman up to twelve years of age shall be punished with death, or rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine.”.

Punishment for rape on a woman up to twelve years of age.

7. After section 376D of the principal Act, the following section shall be inserted, namely:-

Insertion of section 376DA.

“376DA. Where a woman up to twelve years of age, is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with death, or rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine.”.

Punishment for gang rape on a woman up to twelve years of age

8. After section 493 of the principal Act, the following section shall be inserted, namely:-

Insertion of section 493A.

“493A. Every man who by deceit causes any woman to believe that he will marry her and causes that woman to cohabit or to have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.”.

Cohabitation or sexual intercourse caused by a man deceitfully inducing a belief for lawful marriage.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

9. The Code of Criminal Procedure, 1973 (No. 2 of 1974) (hereinafter referred to as the principal Act) shall in its application to the State of Madhya Pradesh, be amended in the manner hereinafter provided.

Amendment of Central Act No. 2 of 1974 in its application to the State of Madhya Pradesh

10. In section 29 of the principal Act,— (i) in sub-section (2), for the words “ten thousand rupees”, the words “one lac rupees” shall be substituted;

Amendment of section 29.

(ii) in sub-section (3), for the words “five thousand rupees”, the words “twenty five thousand rupees” shall be substituted.

11. In section 110 of the principal Act, in clause (d), for the words, figures and bracket “under Chapter XII of the Indian Penal Code (45 of 1860)”, the words, figures and bracket “under Chapter XII of the Indian Penal Code (45 of 1860), or under section 354, section 354A, section 354B, section 354D or section 509 of that Code” shall be substituted.

Amendment of section 110.

12. In section 198 of the principal Act, in sub-section (1), in the existing proviso, in clause (c), for full stop, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

Amendment of section 198.

“Provided further that the cognizance of an offence punishable under section 493 or section 493A of the Indian Penal Code (45 of 1860) may also be taken on police report.”.

Amendment of section 437.

13. In section 437 of the principal Act, in sub-section (1), after the fourth proviso, the following proviso shall be added, namely:—

“Provided also that no person shall, if the offence alleged to have been committed by him against woman is punishable with imprisonment for not less than seven years, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.”.

Amendment of First Schedule

14. In the First Schedule to the principal Act, under the heading “I-OFFENCES UNDER THE INDIAN PENAL CODE”,—

- (i) the entries relating to section 354A, as inserted by the Code of Criminal Procedure (Madhya Pradesh Amendment) Act, 2004 (No. 15 of 2004), shall be omitted;
- (ii) for entries relating to section 354B and section 354D, the following entries shall be substituted, namely:—

Section (1)	Offence (2)	Punishment (3)	Cognizable or non-cognizable (4)	Bailable or non-bailable (5)	By what Court triable (6)
“354B.	Assault or use of criminal force to woman with intent to disrobe	Imprisonment of not less than 3 years but which may extend to 7 years and with fine on first conviction	Cognizable	Non-bailable	Magistrate of the first class
		Rigorous imprisonment of not less than 7 years but which may extend to 10 years and with fine of minimum 1 lac rupees on second or subsequent conviction	Cognizable	Non-bailable	Magistrate of the first class
354D.	Stalking	Imprisonment which may extend to 3 years and with fine on first conviction	Cognizable	Bailable	Magistrate of the first class
		Imprisonment of not less than 3 years but which may extend to 7 years and with fine of minimum 1 lac rupees on second or subsequent conviction	Cognizable	Non-bailable	Magistrate of the first class”;

(iii) after entries relating to section 376A, the following entries shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)	(6)
376AA.	Person committing an offence of rape on a woman up to 12 years of age	Death, rigorous imprisonment of not less than 14 years but which may extend to imprisonment for life which shall mean imprisonment for remainder of that person’s natural life, and with fine.	Cognizable	Non-bailable	Court of Session”.

(iv) after entries relating to section 376D, the following entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
"376D. Gang rape on a woman up to 12 years of age	Death, rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, and with fine.		"Cognizable	Non-bailable	Court of Session".

(v) in entries relating to section 493, in column 4, for the word "Non- cognizable", the word "Cognizable" shall be substituted;

(vi) after entries relating to section 493, the following entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
"493A. Cohabitation or sexual intercourse caused by a man deceitfully inducing a belief for lawful marriage	Imprisonment which may extend to 3 years and with fine		Cognizable	Bailable	Magistrate of the First Class";

STATEMENT OF OBJECTS AND REASONS

It has been brought to notice of the State Government that offences of sexual harassment, assault or use of criminal force against women are increasing day-by-day. Offences of rape and gang rape are being reported in a large number. Many suicide cases of women after molestation were registered during last three years. Sexual exploitation and abuse of women of twelve years or less are heinous crimes and need to be dealt with effectively.

2. To deter the possible perpetrators of the crime against women and to ensure full freedom and dignity of the women as enshrined in the Constitution of India, the punishment and fine are proposed to be enhanced in the existing provisions.

3. The State Government has, therefore, decided to amend the Indian Penal Code (No. 45 of 1860) in its application to the State of Madhya Pradesh suitably.

4. Certain practical difficulties have been experienced in the implementation of the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) as well. In view of the above, it has been felt necessary to amend the Code of Criminal Procedure, 1973 suitably.

5. The salient features of the proposed amendments of the Code of Criminal Procedure are as under:—

- (1) The amount of fine specified in section 29 has been enhanced.
- (2) It is proposed in section 437 that even if the offence committed by a person against a woman is punishable for not less than 7 years, the person shall not be released on bail by the court without giving an opportunity of hearing to the public prosecutor.
- (3) Certain sections of the Indian Penal Code (No. 45 of 1860) have been proposed to be amended, therefore consequential amendments have been proposed in the First Schedule to the Code of Criminal Procedure.

6. The State Government has, therefore, decided to amend the Code of Criminal Procedure, 1973 in its application to the State of Madhya Pradesh suitably.

7. Hence this Bill.

BHOPAL :

Dated, the 28th November 2017

RAMPAL SINGH

Member-in-charge.